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Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

AUG - 4 1997

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )

Cellular Service and Other Commercial )  
Mobile Radio Services in the Gulf of )  
Mexico )

WT Docket No. 97-112

Amendment of Part 22 of the Commission's )  
Rules to Provide for Filing and Processing )  
of Applications for Unserved Areas in the )  
Cellular Service and to Modify Other )  
Cellular Rules )

CC Docket No. 90-6

To: The Commission

**REPLY COMMENTS OF TEXAS RSA 20B2 LIMITED PARTNERSHIP**

Texas RSA 20B2 Limited Partnership ("Texas RSA LP"),<sup>1</sup> by its attorneys, respectfully submits these Reply Comments in response to comments filed pursuant to the *Second Further Notice of Proposed Rulemaking* ("SFNPRM") released by the Federal Communications Commission ("FCC" or "Commission") on April 16, 1997, in the above captioned proceeding regarding the future licensing of cellular service in the Gulf of Mexico Service Area ("GMSA"). Specifically, Texas RSA LP supports the proposals of GTE Service Corporation ("GTE") contained in its Comments filed July 2, 1997, except to the extent noted below.

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<sup>1</sup> Texas RSA LP currently provides cellular service on the B band frequencies to the Texas 20 -- Wilson Rural Service Area ("RSA") (Market No. 671B) which borders the Gulf of Mexico Service Area ("GMSA"). Texas RSA LP's service area also extends to the islands off the coast of Texas, and Texas RSA LP currently provides service to a portion of Matagorda Island, among others.

**I. RATHER THAN CREATING A SEPARATE LICENSING AREA, THE COMMISSION SHOULD EXPAND LAND-BASED CELLULAR MARKETS TO INCLUDE COASTAL REGIONS OF THE GULF OF MEXICO**

Texas RSA LP supports GTE and those other commenters who oppose the Commission's proposal to create an Exclusive Zone and a separately licensed GMSA Coastal Zone and instead request that the Commission expand the land-based cellular markets adjacent to the Gulf of Mexico ("Gulf") to include the coastal regions of the Gulf.<sup>2</sup> GTE correctly argues that the Commission's creation of a new licensing area, the Coastal Zone, will not: (1) conclusively resolve the conflict between land-based and water-based cellular carriers; (2) ensure reliable coverage to boating traffic in the coastal regions; and, (3) resolve the difficulties of providing reliable coverage to customers on the beach.<sup>3</sup> Even Bachow/Coastel, L.L.C. ("Coastel"), one of the Gulf licensees, argues that the public interest would not be served by creating two Gulf zones.<sup>4</sup>

As GTE correctly stated,

[I]t is not technically feasible for separate carriers to serve the land adjacent to the shore and the Gulf waters adjacent to the land, with each carrier's coverage attenuating at the shoreline. Because of the way radio signals propagate over water, there is no way to structure the cellular operational rules so that one carrier will not encroach on the other's market area.<sup>5</sup>

Although Texas RSA LP initially concurred with the Commission's two-zone proposal in its comments, Texas RSA LP's primary interest was in protecting existing operations both on the mainland and on boundary islands within the Gulf.<sup>6</sup> As discussed below, this remains Texas RSA

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<sup>2</sup> GTE at 2-10; *see also* Comments of BellSouth Corporation ("BellSouth") at 4-9; Comments of AT&T Wireless Services, Inc. ("AT&T") at 4-5; Comments of MobileTel, Inc. ("MobileTel") at 2-4.

<sup>3</sup> GTE at 2.

<sup>4</sup> Coastel at 18-24.

<sup>5</sup> GTE at 5.

<sup>6</sup> *See* Texas RSA LP at 7.

LP's concern. Upon review of the comments in this proceeding, however, Texas RSA LP now concludes that GTE's alternate proposal will best protect incumbent operations while also eliminating licensing conflicts and coverage shortfalls that the Commission's proposal will not.

For example, the Commission's two-zone proposal would not effectively resolve the disputes between land-based and water-based carriers in a manner that would enable Texas RSA LP to provide service to portions of the barrier islands that are within its market, but that remain unserved because of disputes with a water-based carrier.<sup>7</sup> Under the Commission's two-zone proposal, Texas RSA LP still will not be able to provide service to portions of Matagorda Island because of such dispute.<sup>8</sup>

By adopting GTE's proposal and including the coastal region of the Gulf of Mexico in the land-based carriers' markets, the Commission would conclusively: (1) resolve disputes between land and water-based licensees; (2) allow licensees to provide reliable service to beaches, islands and shore boat traffic; (3) prevent interruption of service because of platform relocation (an occurrence admittedly beyond the Gulf licensees' control); (4) create regulatory parity between cellular and other Commercial Mobile Radio Services ("CMRS") in the Gulf; (5) resolve inconsistencies between water and land propagation formulas; and, (6) allow licensees to provide services to customers within a single community of interest.<sup>9</sup> Accordingly, the Commission should not create a Coastal Zone licensed separately from the GMSA and the adjacent land-based markets, but instead should extend land-based markets into the coastal region of the Gulf of Mexico.

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<sup>7</sup> See Texas RSA LP at 8.

<sup>8</sup> See *id.*

<sup>9</sup> See, e.g., BellSouth at 10-11.

If the Commission does not adopt GTE's proposal, however, and instead creates two licensing zones as proposed, then prior to the acceptance of Phase II applications, the Commission should clarify the Cellular Geographic Service Areas ("CGSAs") of the Gulf carriers and should allow existing land-based licensees an opportunity to modify their existing systems to provide better coverage to the coastal regions of the Gulf, as Texas RSA LP requested in its comments.<sup>10</sup> The CGSA of the Gulf carriers within the Coastal Zone should be defined as the area of actual coverage pursuant to Section 22.911(a)(2). Many coastal areas remain unserved not because of an unwillingness of the adjacent carrier's to provide service, but because of regulatory uncertainty and conflicts between water and land-based licensees. In addition, many coastal areas that suffer from marginal coverage are too small to be licensed as "unserved areas" under Section 22.951. Accordingly, prior to the acceptance of Phase II applications, the Commission should allow existing land-based licensees to modify their facilities to improve marginal areas of coverage in coastal regions.

## **II. THE COMMISSION SHOULD GRANDFATHER ALL EXISTING LAND-BASED OPERATIONS WITHIN THE COASTAL REGION OF THE GULF OF MEXICO**

Most importantly, whatever the Commission decides regarding the creation of a separate Coastal Zone or the extension of the land cellular markets into the Gulf, the Commission should grandfather all existing land-based operations within the coastal region<sup>11</sup> as the Commission proposed in the *SFNPRM*.<sup>12</sup> Texas RSA LP supports the Commission's conclusion that this will

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<sup>10</sup> Texas RSA LP at 8-9.

<sup>11</sup> See AT&T at 10; Comments of 360° Communications Company ("360°") at 7.

<sup>12</sup> *SFNPRM* at ¶¶ 36, 43.

enable subscribers to receive uninterrupted service from their current provider, and encourage carriers to utilize resources efficiently rather than wasting them on duplicative facilities.<sup>13</sup>

As Texas RSA LP explained in its comments, incumbent operations which should be protected also include operations which provide coverage pursuant to Section 22.911(b).<sup>14</sup> As Texas RSA LP explained in its comments, failure to consider Section 22.911(b) alternative showings, and to protect the real world coverage that they indicate, will: (1) cause land and coastal areas currently receiving service to become “unserved;” (2) result in unnecessary duplicative facilities; (3) cause interruption of service; (4) waste Commission resources; and (5) cause prejudice against existing cellular carriers abutting the Gulf.<sup>15</sup> Accordingly, the Commission should address all applications for Section 22.911(b) alternative CGSA determinations on a case-by-case basis and protect these incumbent operations.<sup>16</sup>

Texas RSA LP strongly opposes the proposal of Petroleum Communications, Inc. (“PetroCom”) that the Commission require land-based incumbent carriers to recalculate the SAB of any cell within 35 miles of the GMSA coastline using a “hybrid” formula and “pull back” the contour of any cell so calculated to extend into the CGSA of a Gulf carrier.<sup>17</sup> AT&T, 360°, and even

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<sup>13</sup> *SFNPRM* at ¶ 36.

<sup>14</sup> Texas RSA LP at 5-7. Section 22.911(b) of the rules provides carriers with an alternative method for determining their CGSAs based on actual coverage and real world conditions when actual coverage within the market differs significantly from the Service Area Boundaries (“SABs”) predicted by the Section 22.911(a) methodology.

<sup>15</sup> *See id.*

<sup>16</sup> Texas RSA LP at 5-7.

<sup>17</sup> PetroCom at 10.

Coastal all oppose the use of such a hybrid formula.<sup>18</sup> The retroactive application of a new propagation method would frustrate the Commission's goal of preserving uninterrupted cellular coverage within the region, and would result in tremendous hardship to licensees and needless administrative difficulty. Accordingly, if the Commission adopts any new or hybrid propagation formula, it should apply prospectively only.

If the Commission grandfathers water-based operations in the coastal region, as proposed in the *SFNPRM*,<sup>19</sup> and does not require the Gulf licensees to pull back operations, as proposed by GTE,<sup>20</sup> then the Commission should grandfather existing operations only. Texas RSA LP supports the Commission's proposal that the CGSA of a carrier that reduces coverage in the coastal region "should be reduced to reflect the actual reliable service area of that carrier."<sup>21</sup> Texas RSA LP opposes PetroCom's proposal that the Gulf carriers have flexible CSGAs even in the proposed Coastal Zone, and that they retain the right to recover areas initially served but later vacated due to changed conditions, *i.e.*, moved platform.<sup>22</sup> The Gulf carriers admit that the movement of platforms is beyond their control. The public should not be penalized because of the Gulf licensees' lack of

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<sup>18</sup> AT&T at 10 (impractical and unnecessary); 360° at 7 ("impossible for the agency to monitor and regulate"); Coastal at 29 (harmful to water-based licensees).

To the extent that GTE supports the use of the water propagation method, GTE at 12, and such support could be construed as endorsing retroactive application of that method to land-based operations, Texas RSA LP opposes GTE's proposal. Texas RSA LP believes that GTE probably intended for its hybrid water propagation method to be used only if the Commission also adopted GTE's proposal that the Coastal Zone be included in land-based cellular markets and that Gulf-based carriers be required to pull back from this area. See GTE at 3, 12.

<sup>19</sup> *SFNPRM* at ¶¶ 36, 43.

<sup>20</sup> GTE at 12.

<sup>21</sup> *SFNPRM* at ¶¶ 36, 43.

<sup>22</sup> PetroCom at 8-9.

control over their transmitter locations. As Texas RSA LP noted in its comments, if another entity can provide reliable and uninterrupted service to an unserved area in the coastal region, then the Commission should allow such carrier to provide service on a primary basis. Relegating a land-based carrier to secondary status in the coastal region, as PetroCom proposes,<sup>23</sup> would discourage investment in reliable systems, and cause duplication of facilities interruption of service to the public. These results are not in the public interest.

### **III. INTERCONNECTION, UNIVERSAL SERVICE, AND E-911 ISSUES ARE BEYOND THE SCOPE OF THIS PROCEEDING**

Coastel and PetroCom request that the Commission resolve various issues related to the terms upon which the Gulf licensees interconnect to land-based local exchange carriers ("LECs").<sup>24</sup> PetroCom also requests that the Commission exempt the Gulf carriers from universal service fund support contributions and that the Commission rule on various aspects the Gulf carriers' E-911 service.<sup>25</sup> These issues are beyond the scope of the *SFNPRM* and of this proceeding. Accordingly, the Commission should defer consideration on this matters for another proceeding.

### **CONCLUSION**

The Commission's two-zone proposal neither adequately reduces conflict between licensees nor ensures reliable cellular coverage along the beaches, islands and shoreline of the coastal region of the Gulf. To remedy this situation, the Commission should extend the adjacent land cellular

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<sup>23</sup> PetroCom at 9.

<sup>24</sup> Coastel at 30; PetroCom at 19.


<sup>25</sup> PetroCom at 21-22.

market boundaries into the coastal region of the Gulf and allow land-based carriers to provide service to coastal areas. In the alternative, the Commission should allow land-based carriers to modify their exiting facilities in order to provide more complete coverage prior to accepting Phase II applications.

Whichever method the Commission uses to license the coastal region, the Commission should protect incumbent land-based operations in this region, including operations providing coverage pursuant to Section 22.911(b). Accordingly, the Commission should grant all properly filed Section 22.911(b) applications as discussed in Texas RSA LP's Comments.

Respectfully submitted,

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August 4, 1997



## CERTIFICATE OF SERVICE

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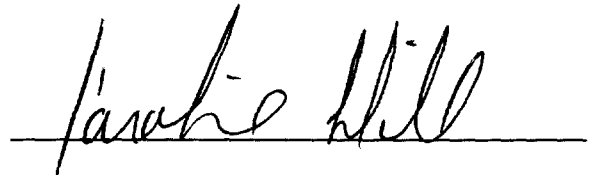
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